

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

RONALD JOHNSON,

Petitioner,

vs.

ED LESTER, ATTORNEY GENERAL
OF THE STATE OF MONTANA,

Respondents.

CV-17-90-BU-BMM

ORDER

Petitioner Ronald Johnson (Johnson) has filed a petition seeking a writ of habeas corpus under 28 U.S.C. § 2254. (Doc. 1). Johnson is a state prisoner proceeding *pro se*.

Johnson pleaded guilty to a single count of felony embezzlement in Montana's Second Judicial District Court, Butte-Silver Bow County in July of 2017. (Doc. 1 at 3). Johnson states that he has been waiting to be sentenced for more than 120 days and that no sentencing date has been set. Johnson requests this Court to force the state court to sentence him without further delay. (Doc. 1 at 7).

Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendations in this matter on January 22, 2018. (Doc. 3). Judge Lynch recommended that

Johnson's petition be dismissed for failure to state a claim. (Doc. 3 at 5). Johnson did not file objections to Judge Lynch's Findings and Recommendations.

The Court has reviewed Judge Lynch's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Lynch's Findings and Recommendations, and adopts them in full.

A federal habeas claim is cognizable only if it alleges that the petitioner is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). Johnson's petition must be dismissed because Johnson has failed to allege a violation of federal law. No right to a timely sentencing exists under the Sixth Amendment's Speedy Trial Clause. *Betterman v. Montana*, 136 S. Ct. 1609, 1612 (2016). No due process claim for unreasonable sentencing delay clearly exists under federal law at this time. *Id.* at 1619.

Accordingly, IT IS ORDERED:

1. Johnson's Petition is DISMISSED with prejudice.
2. A certificate of appealability is DENIED. Johnson has made no substantial showing that he was deprived of a constitutional right. There are no close questions and there is no reason to encourage further proceedings in this case.
4. The Clerk is directed to enter judgment accordingly.

DATED this 16th day of February, 2018.

A handwritten signature in blue ink that reads "Brian Morris". The signature is fluid and cursive, with the first name "Brian" and last name "Morris" clearly distinguishable.

Brian Morris
United States District Court Judge